

Jim Gandrup
1961 Main Street # 154
Watsonville, CA 95076
Petitioner, *Pro Se*

15 - 287
MISC. CASE #
U.S. DISTRICT COURT
DISTRICT OF DELAWARE

**UNITED STATES DISTRICT COURT
DELAWARE DISTRICT COURT**

JIM GANDRUP,

Petitioners,

v.

**UNITED STATES OF AMERICA,
INTERNAL REVENUE SERVICE, and
JULIETA JOHNSON, REVENUE AGENT,**

Respondents.

) **CASE NO.**
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**PETITION TO QUASH IRS
THIRD PARTY SUMMONS**

FILED
U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2015 OCT 27 PM 12:36

paid Rec # 24268

COMES NOW, Jim Gandrup, Petitioner *pro se*, (herein "Gandrup") and petitions this Honorable Court to quash an Internal Revenue Service Third Party Administrative Summons.

JURISDICTION

1. This Court has jurisdiction pursuant to Title 26 U.S.C. § 7609 and Title 5 U.S.C. § 552(a).¹

2. Venue is proper, because the custodian of records and records sought (the subject of this controversy) by the summonses to Bank of America, N.A. is within the

¹ All further references to Code Sections are to Title 26 unless otherwise noted.

United States District Court – Delaware District Court.

PARTIES

3. The Petitioner in this action is Jim Gandrup, whose address is 1961 Main Street # 154 Watsonville, CA 95076

4. The Respondents in this action are the United States of America, the Internal Revenue Service (hereinafter "IRS") and Julieta Johnson, IRS Revenue Agent (herein "Johnson").

5. Johnson is the IRS official that issued the alleged summons which is the subject of this controversy. Johnson's mailing address is 55 S. Market Street, Mail Stop 4150 JJ San Jose, CA 95113.

6. The Third Party from whom IRS seeks records is Bank of America N.A., P.O. Box 15047 Wilmington, DE 19850.

7. The third party summons was issued to Bank of America on October 6, 2015. (See Exhibit "A", the IRS summons issued to Bank of America, a true and correct copy attached hereto). On or about November 6, 2015, at 9:00 a.m., Bank of America N.A. is scheduled to comply with the IRS summons, surrendering Gandrups' records to the IRS.

CAUSES OF ACTION AGAINST RESPONDENTS

For the Causes of Action against the Respondents, and each of them, Gandrup allege as follows:

I. First Cause of Action Against Respondents

8. The IRS is in violation of the statutory summons process as they failed to provide Gandrup advance notice that contact with any of these third parties were to be made; and, failed to periodically provide Gandrup with a record of persons contacted by the IRS about Gandrup as required by Section 7602(c)(1)&(2).

II. Second Cause of Action Against Respondents

9. Gandrup alleges upon information and belief that the Summons was issued while a referral for criminal prosecution to the Department of Justice is pending, which was made by the IRS in violation of Section 7602(d)(2)(A).

III. Third Cause of Action Against Respondents

10. Because of the violations and abuses of the summonses process as alleged within paragraphs 8 through 10, inclusive, the IRS failed to meet the "GOOD FAITH" requirement of the *Powell*² standard.

IV. Fourth Cause of Action Against Respondents

11. Respondents, contrary to law have caused, or will cause, Gandrup's records to be turned over to the Respondents in violation of the banking and constitutional Privacy Laws of the United States of America and the constitutional privacy laws of the State of Delaware.

V. Fifth Cause of Action Against Respondents

12. The summons issued to Bank of America N.A., on its face, is deficient in

² *United States v. Powell*, 379 U.S. 48, 85 S.Ct. 248 (1964).

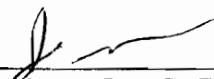
that there is no evidence that the summons was issued in aid of the collection of a tax assessment.

PRAYER FOR RELIEF

Wherefore, Gandrup respectfully requests that this Court:

1. QUASH the third party administrative summons of October 6, 2015, issued to Bank of America for the records pertaining to Jim Gandrup.
2. ORDER that the IRS turn over to Gandrup a copy of any and all summonses and request for documents that were issued to third parties that were issued by IRS to any Third Parties to obtain records.
3. ORDER that the IRS turn over to Gandrup any and all records that were or will be obtained, in its investigation of Gandrup by any means that were not in full compliance with the summoning provisions of the Internal Revenue Code Section 7602, et seq. and Section 7609, et seq.
4. ORDER Respondents to pay Gandrup \$1,000.00 for each violation of the State and Federal Privacy Laws.
5. Grant any and all other relief that the Court deems just and prudent, the foregoing considered.

Dated: Oct 21, 2015



Jim Gandrup, *Pro Se* Petitioner
1961 Main Street # 154
Watsonville, CA 95076



Summons

In the matter of Jim S Gandrup AKA James Gandrup, Jim Gandrup, Jimmie Stephen Gandrup, Jim Pavers

Internal Revenue Service (Division): Small Business Self-Employed

Industry/Area (name or number): San Jose, California - Western

Periods: Calendar year ending December 31, 2011, December 31, 2012, December 31, 2013 & December 31, 2014,

The Commissioner of Internal Revenue

To: Bank of America, N.A., Legal Order Processing

At: P.O. Box 15047, Wilmington, DE 19850-5047

You are hereby summoned and required to appear before Julieta Johnson- Revenue Agent or her designee

an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

For the period February 1, 2011 through January 31, 2015, please provide all of the following documents in regard to Silver Bullet Paving, INC accounts in which Marjorie Peckham had signatory authority and/or the right of withdrawal, including but not limited to Account # 4962294633.

- 1) Account statements
- 2) Deposited items
- 3) Deposit slips
- 4) Signature cards
- 5) Detail on all wire transfer and wire instrument instruction
- 6) Cancelled Checks

NOTE: Appearance is not necessary. Requested items can be provided on CD which is preferred. Please call with an estimate of the cost, if over \$1,000, before processing.

Information can be mailed to:

Internal Revenue Service

55 S. Market Street

San Jose, CA 95113

Attn: Julieta Johnson M/S 4150 JJ

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

55 S. Market Street, Attn: Julieta Johnson M/S 4150 JJ, San Jose, CA 95113 Ph# 408-283-1747 Fax# 855-273-1207

Place and time for appearance at 55 S. Market Street, Attn: Julieta Johnson M/S 4150 JJ, San Jose, CA 95113



Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 2039 (Rev 10-2010)
Catalog Number 21405J

on the 6th day of November 2015 at 9:00 o'clock a m.
Issued under authority of the Internal Revenue Code this 6th day of October 2015
(year) (year)

[Signature]
Signature of issuing officer
[Signature]
Signature of approving officer (if applicable)

Revenue Agent

Title

Group Manager

Title

Part C — to be given to noticee

EXHIBIT "A"

MC 15-287

CERTIFICATE OF SERVICE

I, Jim Gandrup, certify that pursuant to IRC §7609(b)(2)(B) true copies of the attached
“**PETITION TO QUASH IRS THIRD PARTY SUMMONS**” has been served, on this
_____th day of October, 2015, via Certified Mail to each of the following parties:

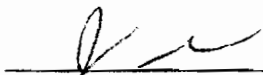
Cert. Mail # 7014 2870 0002 2001 7687
Internal Revenue Service
Attn: Julieta Johnson
55 S. Market Street
Mail Stop 4150 JJ
San Jose, CA 95113.

Cert. Mail # 7014 2870 0002 2001 7625
Bank of America, N.A.
P.O. Box 15047
Wilmington, DE 19850

Cert. Mail # 7014 2870 0002 2001 7632
United States Attorney's Office
c/o Loretta E. Lynch, US Attorney General
950 Pennsylvania Avenue NW
Washington, D.C. 20530-0001

FILED
U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2015 OCT 27 PM 12:31

Cert. Mail # 7014 2870 0002 2001 7694
US Attorney's Office
Attn: Charles M. Oberly, III
1007 N. Orange, Suite 700
Wilmington, DE 19801



Jim Gandrup, Pro se

cc: United States District Court
J. Caleb Boggs Federal Building
844 North King Street
Wilmington, DE 19801

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE

2015 OCT 27 PM 12:39

1961 Main St.
Washington, DE 19806

United States Dist
Delaware District
J. Caleb Boggs, Jr.
844 North King St.
Washington, DE 19806

7014 2870 0002 2001 7700



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